

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1233 - SB 1367

March 16, 2021

**SUMMARY OF ORIGINAL BILL:** Creates the *Tennessee Accommodations for All Children Act*. Requires a public school to provide a reasonable accommodation to a person who has conveyed through a written request they are unwilling or unable to use multi-occupancy restrooms, changing facilities designated for the person's sex and located within a public school building, or sleeping quarters while attending a school-sponsored activity. Authorizes, within two years of a claim, a person who has provided a written request for reasonable accommodation to bring a civil action against a public school under certain circumstances and establishes certain damages which may be awarded if the person's claim prevails.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact - The proposed language may result in increases in state and local expenditures associated with compliance measures and potential civil litigation; however, due to multiple unknown factors, a precise fiscal impact cannot be determined.

**SUMMARY OF AMENDMENT (004834):** Deletes all language after the enacting clause and rewrites the bill such that the substantive changes: (1) revise the definition of "reasonable accommodation" and the conditions under which a school must provide reasonable accommodation to an individual; (2) establish limits to the extent of reasonable accommodation a school is required to provide; (3) establish an appeal process for when a reasonable accommodation is denied; (4) require an appeal to heard by an impartial hearing officer; (5) revise the conditions for when a person has a right to take civil action against a public school; and (6) require civil action to be brought within one year of the initial claim.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The legislation defines reasonable accommodation as access to a single-occupancy restroom or changing facility, or use of an employee restroom or changing facility.
- Reasonable accommodation does not include requesting: (1) access to a restroom or changing facility that is designated for use by members of the opposite sex while

persons of the opposite sex are present or could be present; (2) that a school make physical or structural changes to a school building; or (3) that a school limit access to a restroom or changing facility designated for use by the opposite sex.

- Because the language of the bill does not define “person”, it is assumed that the legislation would apply to any student, teacher, or member of the public.
- A person who has requested reasonable accommodation may take civil action against the school if the school intentionally allows a person of the opposite sex to enter a multi-occupancy restroom or changing facility designated for the person’s sex and located in the school building while others are present.
- Title VII of the Civil Rights Act of 1964 requires employers to protect the rights and confidentiality of transgender employees.
- The Family Educational Rights and Privacy Act (FERPA) prohibits schools from disclosing certain confidential information contained in a student's educational record, including if they are transgender.
- The extent and timing of measures schools will take to comply with reasonable accommodation requests while complying with student and employee privacy laws, the extent of any legal exposure which may be encountered, and the extent of any damages which may be awarded to private parties are unknown. Due to multiple unknown factors, the extent and a timing of civil litigation that may occur as a result of this legislation cannot be precisely estimated; therefore, the fiscal impact to state and local expenditures cannot reasonably be determined.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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